



BURCH & CRACCHIOLO

MICHAEL S. MANDELL
DIRECT LINE: 602-234-8771
DIRECT FAX: 602-850-9771
E-MAIL: MManell@bcattorneys.com

August 14, 2013

VIA E-MAIL — mabely@fec.gov
& REGULAR U.S. MAIL

Marianne Abely, Esq.
Federal Election Commission
Enforcement Division
999 East Street, NW
Washington, DC 20463

Re: Gary Husk
MUR 6465

Dear Ms. Abely:

On behalf of Gary A. Husk, the following is his response to the allegations set forth in the Federal Elections Commission's ("FEC") correspondence to Michael Mandell date stamped December 3, 2012. That document included numerous false allegations related to Mr. Husk's knowledge and concealment of the Fiesta Bowl's (the "Bowl") decade-long scheme of reimbursing employees, and others, for their political contributions.

As part of this response, I am submitting additional evidence and a thorough analysis of the evidence for your consideration. Since much of this information may not have been disclosed to the FEC prior to its initial inquiry, a significant portion of this response is intended to ensure that the FEC has the benefit of this exculpatory evidence before making a determination of whether it is appropriate to move forward with enforcement proceedings, which it is not.

Finally, having thoroughly reviewed and analyzed the documents that you have disclosed, it should be noted that many of these documents were derived from the Report to the Special Committee, which contained numerous disclaimers that the Report made no credibility determinations or legal conclusions. Thus, even the authors of this Report cautioned against placing too much reliance upon its content given its limitations. It should also be emphasized that none of the disclosed documents contained any evidence that Mr. Husk had any specific knowledge of the five (5) contributions and reimbursements that serve as the basis for the FEC's inquiry. Although I believe that the lack of such evidence is determinative of these allegations, I am providing you with evidence sufficient to demonstrate Mr. Husk's innocence of any wrongdoing in this inquiry.

RECEIVED
FEDERAL ELECTION
COMMISSION

2013 AUG 15 PM 1:35

CELA

Burch & Cracchiolo, P.A.
702 E. Osborn Rd., Suite 200 • Phoenix, AZ 85014
Main: 602.274.7611 • Fax: 602.234.0341

BCATTORNEYS.COM

Marianne Abely, Esq.
Federal Election Commission
August 14, 2013
Page 2

I. GENERAL BACKGROUND

As noted in the correspondence by the FEC, the Bowl and its affiliated entities are non-profit organizations established under 501(c)(3) of the Internal Revenue Code. Defendant John Junker served as the President and Chief Executive Officer of the Bowl for approximately 21 years and was paid an annual salary in excess of \$600,000.00. The Chief Operating Officer of the Bowl was Natalie Wisneski who, although she did not have a college degree, received an annual salary in excess \$300,000.00.

The Bowl also retained the outside consulting services of Jamieson & Gutierrez, Inc. (owned by Alfredo Gutierrez) and Husk Partners, Inc. (owned by Gary Husk) from approximately 2000 through 2010. During this period, the Bowl also retained the services of other public affairs consultants, including DeMenna & Associates (Kevin DeMenna), HighGround, Inc. (J. Charles Coughlin) and Mario E. Diaz & Associates (Mario Diaz).

The Bowl also was provided legal representation by the Phoenix law firm of Snell & Wilmer. In fact, Craig Williams served as General Counsel, and was a member of the Executive Committee of the Board of Directors. In this capacity, Mr. Williams was solely responsible for providing both Defendant Junker and the Board of Directors with legal advice.

Although the FEC's attention is rightfully focused on the violations of federal campaign laws by persons affiliated with the Bowl, it is important to note that this was but one of the numerous illegal activities uncovered as a result of internal and law enforcement investigations. Far more significant than the approximately \$60,000.00 worth of illegal campaign contributions made by the Bowl, was the approximately \$5 million that was misappropriated by Defendant Junker alone over the same period of time. In addition, numerous employees involved in the campaign reimbursement scheme also illegally received Bowl funds for their personal benefit.

This multi-million dollar scheme was accomplished by having the Bowl pay for the personal expenses of persons affiliated with the Bowl and was orchestrated by the Board of Directors, Mr. Junker, Ms. Wisneski and their respective employees. A few examples of some of these expenditures include the following:

- \$44,000 for country club memberships for Mr. Junker.
- \$110,000 for Mr. Junker and others to attend a charity golf outing.
- Ms. Wisneski travel to Paris, France to attend Hispanic Businesswomen's group.
- \$13,086.00 for employee travel to wedding and honeymoon for Ms. Keogh wedding.
- \$33,188.96 for Mr. Junker's 50th Birthday weekend for golf and spa treatments in Pebble Beach, California that was attended by employees, board members and their spouses.

- \$8,400.00 for a gold and diamond pendant.
- \$1,000 for a bottle of wine.
- \$1,200.00 for one outing at Phoenix strip club for employees.

Significantly, (1) the sole beneficiaries of this scheme were employees and board members, (2) this misappropriation was concealed for at least a decade by Mr. Husk's accusers, and (3) this misappropriation of the Bowl funds was an internal scheme that was admittedly accomplished without the knowledge or participation of Mr. Husk. Obviously, the similarities between this and the political reimbursement scheme are striking. Further, this misappropriation scheme in which employees and board members received millions of dollars worth of personal benefits is indicative of the deep-rooted culture of deceit that infected the Bowl.

There is no question that there was a pattern of illegal conduct condoned on various levels throughout this organization of which Mr. Husk had absolutely no knowledge. Therefore, it is prudent that the FEC review the allegations against Mr. Husk in the context of the Bowl's overall operations. For while Mr. Husk may have been an easy scapegoat for the political contribution scheme that ensured employees never had to use their own funds for such purposes, the same cannot be said for the multi-million dollar misappropriation scheme that improperly compensated employees for millions of dollars of their personal expenses.

Despite the extensive misappropriation that was condoned within the organization and its management, there has never been any allegation that Mr. Husk personally received a reimbursement for a political contribution or was involved in any other misappropriation of Bowl funds. I would submit that this constitutes indisputable evidence of the predisposition of employees and board members to use non-profit funds for their personal benefit while providing clear evidence of Mr. Husk's innocence.

II. FIESTA BOWL INVESTIGATIONS

1. *Woods Internal Investigation*

In the fall of 2009, the Bowl became aware of an investigation by the *Arizona Republic* regarding various improprieties at the Bowl. Although much of the focus was on the reimbursement of political contributions, there were also allegation of unreasonable compensation and misappropriation of funds. In an effort to address these issues, the Bowl Board of Directors, through its Executive Committee (EC), retained the services of former Arizona Attorney General Grant Woods to conduct an internal investigation in mid-December 2009. Although Mr. Woods was provided complete independence in conducting this investigation, the EC directed that: (1) complete his inquiry in a brief period of time; (2) Ms. Wisneski serve as the primary point of contact with the Bowl; (3) Mr. Husk serve as a liaison between the Bowl staff, the Board and Mr. Woods; and (4) Mr. Woods not prepare a written report of his investigation.

While there were various issues addressed by Mr. Woods, the primary focus of his investigation was the allegation that employees were routinely reimbursed for their political contributions. During the Woods' investigation, there were various current and former Bowl employees who were interviewed exclusively by Mr. Woods. According to Mr. Woods verbal report to the EC, with one exception, all of these individuals unequivocally stated that they had not been reimbursed for their political contributions. In particular, Mr. Woods stated that he was impressed by the consistent statements from the two individuals responsible for oversight of the Bowl's financial affairs, Ms. Wisneski and former Chief Financial Officer Stanley Laybourne. Both of these key financial officials adamantly denied that this practice ever occurred. In fact, Mr. Woods stated that this scheme could not have occurred without the knowledge and participation of at least one of these two individuals.

Further, Mr. Woods found that the only person who had alleged the reimbursement of political contributions was a former disgruntled employee who lacked credibility. As a result, Mr. Woods advised the EC and issued a press release stating that he found "no credible evidence" that employees had been reimbursed for their political contributions.

It is important to note that all of these employees, even those with whom Mr. Husk had absolutely no contact, apparently lied about the reimbursements during their interview with Mr. Woods. Thus, there is no truth to the allegation that Mr. Husk "coached" them to lie. In addition, it should be noted that Ms. Keogh, in the midst of the Woods investigation, disclosed the reimbursement scheme to at least one board member who never chose to bring it to the attention of Mr. Woods. Also, at the time of Ms. Keogh's initial disclosure she never alleged that she had lied to Mr. Woods because Mr. Husk had coached her to do so. This explanation was apparently created sometime over the ensuing 10 months before her epiphany to Chairman of the Board of Directors, Duane Woods, in October 2010.

Finally, as evidenced by the FEC's disclosure, there are emails between Mr. Grant Woods and Mr. Brewer that provided at least a reasonable basis for suspecting the reimbursement occurred. This information was never shared with Mr. Husk or anyone else for that matter. Thus, Mr. Husk did not have the benefit of this information at any time during the investigation.

2. Investigation by Other Government Agencies

In the months following the Woods investigation, the Arizona Secretary of State, the Federal Bureau of Investigations (FBI) and the Arizona Attorney General (AG) conducted at least some level of inquiry into the allegations of reimbursement of political contributions by the Bowl. Agents from the FBI interviewed at least two Bowl employees and a representative from the Arizona Secretary of State contacted all Bowl employees who made political contributions via written correspondence seeking their cooperation.

Thus, all of the current and former employees were afforded various forums and opportunities to disclose the reimbursement scheme and refused to do so. Although most

Marianne Abely, Esq.
Federal Election Commission
August 14, 2013
Page 5

individuals refused to cooperate with the inquiries, those few that did cooperate continued to deny the scheme without any influence from Mr. Husk or anyone else. Again, these actions were consistent with the employees' history of concealing their illegal conduct completely independent of Mr. Husk.

3. *Special Committee Investigation*

In approximately October 2010, Mr. Junker's assistant, Kelly Keogh, divulged to Chairman Duane Woods that the reimbursement practice was prevalent and that she, and presumably others, had made false statements during the Woods investigation.

As a result of the information provided by Ms. Keogh, the Bowl Board of Directors retained the services of Robins, Kaplan, Miller & Ciresi LLP (Counsel to the Special Committee) to conduct a second, and much more thorough investigation, into all aspects of the Bowl operations. Mr. Junker did not cooperate in this investigation and Ms. Wisneski cooperated in the eleventh hour of this investigation. Mr. Husk, on the other hand, fully cooperated, submitted to numerous interviews and provided the Counsel for the Special Committee with valuable information that was not voluntarily disclosed by attorneys, employees and board members. This included correspondence from the Secretary of State and contacts by the FBI that had been withheld by employees in order to appear that, but for Mr. Husk, they would have been honest with investigators. Nonetheless, several employees of the Bowl falsely implicated Mr. Husk in the political reimbursement scheme and this was documented in the public report that was laced with qualifications and untruths.

III. CRIMINAL PROSECUTIONS

1. *Wisneski Federal Prosecution*

The Special Committee Report was supplemented by investigations conducted by state and federal authorities. As a result of these investigations, Ms. Wisneski was indicted on one (1) charge of Conspiracy, three (3) counts of Federal Campaign Contributions in the Name of Another/Aid and Abet, three (3) counts of False Statements/Aid and Abet, and two (2) counts of Fraud and False Statement in a Federal Tax Return/Aid and Abet. Subsequently, Ms. Wisneski pled guilty to a felony charge of Conspiracy in federal court that included a Factual Basis to support the charge. Although the Factual Basis certainly implicated Mr. Junker, it did not allege that Mr. Husk had knowledge of or participated in the reimbursement scheme.

Ms. Wisneski was sentenced to a term of probation, no jail time and received a fine in the amount of fifty dollars (\$50.00). Despite the fact that Ms. Wisneski admitted to the reimbursement of numerous political contributions made by various employees to several federal candidates over an extensive period of time, it does not appear that the FEC initiated any civil enforcement actions against her.

2. Junker Federal Prosecution

Similarly, Mr. Junker entered a plea of guilty to an Information filed in federal court to one (1) count of Conspiracy to commit the offense of Making Campaign Contributions in the Name of Another, Making False Statements or Defrauding the United States (falsely preparing or signing tax-exempt organization Forms 990). That Information listed the standard Objects of the Conspiracy, the Means and Methods of the Conspiracy and the various Overt Acts in furtherance of the conspiracy. Notably, Mr. Junker and Ms. Wisneski are the only individuals listed in this document as having participated in the conspiracy. Although an individual identified as only 'Lobbyist C' was referenced on several occasions in this document, none of those references alleged any conduct that constituted a federal crime.

Mr. Junker's plea of guilty included a Factual Basis in which he claimed that Lobbyist C encouraged him to reimburse employees for their political contributions by issuing a subsequent bonus to the contributing employee. Mr. Junker claimed Lobbyist C stated "everyone did it." Apparently, this was the speakerphone telephone conversation referenced by Ms. Wisneski that occurred after January 12, 2005. Importantly, Mr. Junker admitted that he:

- a. knew it was illegal for corporations to make donations to political campaigns;
- b. knew it was illegal to use other people's names to conceal the true source of contributions;
- c. knew the Bowl was reimbursing political contribution;
- d. instructed Ms. Wisneski to use bonuses to reimburse employees, himself and his wife;
- e. knew the representations that the political contributions coming from individual funds were false;
- f. knew that the Bowl was the true contributor to the campaigns;
- g. knew that false information was provided to the FEC;
- h. knew that the Bowl returns falsely reported that the organization made no direct or indirect political expenditures; and
- i. knew that the Form 990 tax returns submitted to the IRS falsely stated that the Bowl did not engage in any lobbying activity.

3. Junker State Prosecution

Mr. Junker also entered a plea of guilty in state court to one (1) count of Solicitation of Fraudulent Schemes and Practices. In a highly unusual move by state prosecutors, Mr. Junker's



1
0
4
4
4
7
2
4
8
6

defense counsel was afforded the opportunity to prepare an extensive Factual Basis, unverified by the State, prior to submitting it to the court in a state pleading. Not surprisingly, defense counsel seized the opportunity to recklessly allege numerous improprieties against Mr. Husk. Despite defense counsel's best efforts, the only substantive criminal conduct alleged against Mr. Husk in this six page defamatory document was a conspiracy to violate state campaign finance laws by serving as the 'mastermind' for the Bowl's reimbursement scheme. These allegations far exceeded those contained in documents filed with the federal government and warranted a direct response from Mr. Husk's legal counsel to the Arizona Attorney General. This correspondence was previously provided to the FEC.

4. *Junker IRS Investigation*

Recently, the Bowl has provided the Internal Revenue Service (IRS) with evidence that Mr. Junker received excess compensation for which he did not pay federal taxes. This tax liability is based upon the fact that Mr. Junker was improperly reimbursed for personal expenses that constituted personal income.

Importantly, it does not appear that the FEC initiated any civil enforcement actions against Mr. Junker despite his and Ms. Wisneski's admissions to having authorized and participated in the reimbursement of employees for their contributions to several federal candidates over a ten-year period of time.

5. *Other Fiesta Bowl Employees*

Current Bowl employees Peggy Eyanson and Anthony Aguilar both pled guilty to misdemeanor campaign violations in state court, as did former employee Jay Fields. All three of these individuals were sentenced to probation and assessed a fine. It does not appear that the FEC initiated any civil enforcement actions against any of these individuals. Indeed, no civil enforcement actions appear to have been initiated by the FEC against Kelly Keogh, Monica Simental, Lee Eyanson, Mary McGynn or Shawn Schoeffler, despite the fact that each of these individuals admitted to having received reimbursements for their political contributions and went to great lengths to conceal the same.

IV. DISCUSSION OF KEY ISSUES

1. *Mr. Husk Did Not Serve As the Lead Consultant to the Fiesta Bowl or Solicit Contributions from 2000 through 2005.*

As indicated by the Lobbyist Reports submitted to the Arizona Secretary of State, DeMenna & Associates served as the Designated Lobbyist for the Arizona Sports Foundation/Fiesta Bowl from 2/4/2000 through 2/10/2005. See *Exhibit A*. As such, Mr. DeMenna was the person responsible for soliciting political contributions from 2000 through 2005. This fact is confirmed by a Memorandum from Kevin DeMenna to John Junker dated August 12, 2002 in which it was suggested that the Bowl become more engaged in political activities, including fundraising, on behalf of Arizona legislators. See *Exhibit B*. In addition,

Marianne Abely, Esq.
Federal Election Commission
August 14, 2013
Page 8

Mr. DeMenna authored an email to Mr. Junker dated August 29, 2003 in which he unequivocally stated that he was the "go to guy for just about any legislator of any consequence at the Capitol". See *Exhibit C*.

According to an affidavit filed by Alfredo Gutierrez, the Bowl retained the services of Jamieson & Gutierrez, of which he was the sole owner, based upon his relationship with a member of the Board of Directors. See *Exhibit D*. Mr. Gutierrez also confirms that Mr. Husk played no role in lobbying the Arizona Legislature and was not involved in the solicitation of political contributions from persons affiliated with the Bowl from at least 2000 to 2002.

This evidence is significant in that it clearly demonstrates that Mr. Husk was not the "lead consultant" until 2005. Further, this confirms that Mr. Husk was not involved in the solicitation of political contributions from the Bowl for at least the first two years that these contributions were made and apparently reimbursed. As a consequence, Mr. Husk could not have "suggested" "initiated" or "instigated" this reimbursement scheme and any conclusion to the contrary is simply inaccurate and unsubstantiated.

2. Evolution of the Reimbursement Scheme

Defendant Junker described the manner in which the scheme to reimburse individuals affiliated with the Bowl for their political contributions as follows:

"Originally, when Lobbyist C was dunned for donations by political candidates and office holder, he would pass the request along to Mr. Junker, who, in turn would seek to raise money from individual Board members. However, this method proved generally inadequate to meet the need of the candidates and office holders for money. Lobbyist C next suggested that money be collected from employees of the Bowl but this also proved inadequate. This is because while Board members and employees presented with the opportunity to make donations generally understood why the contributions would be in the best interests of the Fiesta Bowl, they did not understand why the donations would be in their own individual self-interest. As Mr. Junker was himself among that group, another approach needed to be found. "

See Factual Basis for Plea, *State of Arizona v. John Howard Junker*, Page 2, Paragraph 7. Thus, Defendant Junker has represented that Board members were not adequately supportive of his political fundraising efforts and it was necessary to pursue an illegal reimbursement alternative.

Unfortunately for Defendant Junker, his self-serving explanation is not supported by the facts surrounding this scheme. According to the Report, five (5) board members and a board member's spouse contributed to the campaign of Arizona Senator Jon Kyl in November 2005. In fact, there were eight (8) contributions totaling \$14,600. See *Report, Page 46, Footnote 190*. The timing and amount of these contributions are intriguing.

First, these contributions demonstrate that board members, and at least one spouse, were extremely supportive of Senator Kyl and this directly contradicts Defendant Junker's assertion that the scheme was necessary due to a lack of support. Second, these contributions occurred after the alleged speakerphone conversation, sometime after January 12, 2005, when Mr. Husk is alleged to have approved the reimbursement scheme. Had this conversation actually occurred, it is illogical that various board members would have contributed to the Kyl Senate campaign. Rather, the Bowl would have merely solicited and reimbursed employees for contributions to this particular campaign.

Given Defendant Junker's sordid history of misrepresentations, it is clear that he is, once again, making false statements. Board members continued to be supportive and the genesis for the scheme had absolutely nothing to do with inadequate contributions by board members. The timing of the Kyl contributions also demonstrates that Defendant Junker's scheme was completely unrelated to the board's participation in political fundraising. More importantly, this evidence shows that Mr. Junker was less than truthful when he attempted to explain the reason for his conduct in the Factual Basis submitted by the Arizona Attorney General's Office to the Maricopa County Superior Court. As a consequence, Defendant Junker has virtually no credibility on these issues.

3. *Methods for Reimbursing Individuals for Political Contributions.*

As a preliminary matter, it should be noted that the Counsel to Special Committee of the Board of Directors of the Bowl, Final Report ('the Report') identified several methods by which political contributions were reimbursed. According to the Report, there were three ways that the Bowl, under the direction of Junker, and with the assistance of Wisneski and others, provided reimbursements for political contributions. These methods included issuing (1) "bonus" checks to employees, (2) checks to one employee for the reimbursement of other employees and, (3) increased expense-reimbursement checks. *See pages 37 through 50 of the Report.*

In addition, there appear to have been at least three other methods utilized by the Bowl management to provide reimbursements for political contributions that were noted during the federal criminal investigations. These included (1) increasing an employee's annual bonus by an amount equal to the employee's political contributions, (2) increasing an employee's annual bonus by an amount equal to the employee's spouse's political contributions and (3) increasing an employee's vehicle allowance to include reimbursement for a political contribution.

Obviously, the foregoing methods were all internal financial mechanisms over which Mr. Husk, as an independent outside consultant, exercised absolutely no knowledge or control. Nonetheless, the specific method of reimbursement provides persuasive evidence on the issue of culpability.

a. Direct Bonus Checks to One Employee for Reimbursements

According to the Report, the most common method used by Bowl management for reimbursing employees for political contributions was done by issuing a check specifically to the employee for the approximate amount of his or her contribution. As specifically noted:

"According to the individuals we interviewed, the predominant means of reimbursing employees for campaign contributions was through the receipt of a subsequent 'bonus' check. Several individuals described the following process. At some point after a donor made his or her campaign contribution, the contributor would receive a reimbursement check-usually hand-delivered by Wisneski. Keogh estimated that the reimbursement 'usually only took a few days to a three-week timeframe.' Some reimbursements took longer: Eyanson recalled that she once had to wait three months to receive reimbursement."

See Pages 37 through 38 of the Report.

b. Checks to One Employee for the Reimbursement of Others

As stated in the Report, there were also at least three separate instances in which one employee received a large bonus check that was to be used to reimburse the political contributions of other employees. These included a check in the amount of \$15,000 issued to Stanley Laybourne on January 12, 2005, a check in the amount of \$15,000 issued to Anthony Aguilar on October 24, 2006, and a check in the amount \$5,000 issued to Ms. Wisneski on January 21, 2009 that she was allegedly supposed to use to reimburse employees for political contributions. *See Pages 45 through 50 of the Report.*

c. Increased Expense-Reimbursement Checks

As noted in the Report, several employees stated that they were reimbursed for their political contributions through the issuance of an expense reimbursement check. *See Page 50 of the Report.* Apparently, this would be accomplished by adding the amount of the political contribution reimbursement to legitimate expense reimbursements. Again, however, there is no allegation that Mr. Husk was aware of, participated in or authorized this practice. Further, the mere existence of this practice demonstrates that Mr. Junker and his team continued to search for creative ways to reimburse employees for their political contributions that were completely independent of Mr. Husk or any other outside influences.

d. Inclusion of Reimbursement in Annual Bonus

As noted in the federal indictment of Natalie Wisneski and correspondence provided by the FEC, several employees were allegedly reimbursed for their political contributions by increasing an employee's annual bonus by the amount of the political contribution made by the employee. Again, however, there is no allegation or evidence that Mr. Husk was aware of, participated in or authorized this practice.

e. Inclusion of Spouse's Reimbursement in Annual Bonus

As noted in the federal indictment of Natalie Wisneski and correspondence provided by the FEC, several employees were allegedly reimbursed for their spouse's political contributions by increasing an employee's annual bonus by the amount of the political contribution made by the employee's spouse. Again, however, there is no allegation or evidence that Mr. Husk was aware of, participated in or authorized this practice.

f. Inclusion of Reimbursement in Vehicle Allowance

As noted in the federal indictment of Natalie Wisneski and correspondence provided by the FEC, at least one employee was reimbursed for his political contributions by allegedly increasing his vehicle allowance annual by the amount of the political contribution made by the employee. Again, however, there is no allegation or evidence that Mr. Husk was aware of, participated in or authorized this practice.

g. Aggregate Reimbursement for Multiple Contributions

According to statements by Ms. Wisneski and admissions by Defendant Junker, there was at least one instance in which he received an aggregate reimbursement for political contributions for the prior seven years. In addition to the illegal reimbursement, he demanded that the reimbursement be calculated to include that all applicable taxes were covered. Thus, his total contributions amounted to \$11,302.00 and his reimbursement check was in the amount of \$31,948.88. This included an unauthorized bonus of \$20,000.00 thereby ensuring that Defendant Junker made a healthy profit for his political contributions. No one has alleged, nor could they, that Mr. Husk had knowledge of this particular scam. *See Pages 58-59 of the Report.*

4. Mr. Husk is Only Alleged to Have Authorized One of the Reimbursement Methods

According to the Report, Ms. Wisneski indicated:

"at some point after Laybourne was given a \$15,000 bonus check, she and Junker contact Husk to see if Wisneski could get a 'bonus' that she could use to reimburse others for their campaign contributions. According to Wisneski, Husk told Junker and her 'Yeah, it's done all the time.' "

See Page 49 of the Report.

Although Mr. Husk adamantly denies making the alleged statement to either Mr. Junker or Ms. Wisneski, the specific nature of the allegation is, nonetheless, worthy of thorough analysis. As noted by the Special Counsel, Mr. Husk was allegedly asked, sometime after January 12, 2005, by Mr. Junker and Ms. Wisneski whether Ms. Wisneski could get a bonus that she could use to reimburse other employees for their campaign contributions. This conversation is alleged to have taken place while Mr. Junker and Ms. Wisneski were on the speakerphone with

Marianne Abely, Esq.
Federal Election Commission
August 14, 2013
Page 12

Mr. Husk. *See Page 49 of the Report.* This was a very specific question that related to only one of the various methods used to reimburse employees (that of issuing one large check to a single employee for reimbursement to other employees). Significantly, this alleged question did not seek Mr. Husk's opinion regarding the propriety of the Bowl's more common practice of issuing a bonus check directly to individual employees or the alternative practice of reimbursing employees through increased expense-reimbursement checks. Obviously, this more common practice had been implemented for years.

Even if one were to assume the truthfulness of the alleged statement by Mr. Husk, of which there is none, the most that can be said is that he authorized the practice of issuing a large bonus to one employee for the reimbursement of other employees' political contributions sometime after January 12, 2005. Even this, however, is illogical given two significant facts cited in the Report. First, the date of January 12, 2005 is critical since that is the date that Chief Financial Officer was issued a check in the amount of \$15,000 for reimbursement of other employees' political contributions. Therefore, this practice was undoubtedly utilized prior to the date when Mr. Husk is alleged to have approved the practice. *See Pages 44-45 of the Report.*

Second, Mr. Husk's alleged comment did not constitute an approval of the direct reimbursement method favored by the Bowl for at least the previous five years. Clearly, the allegations fostered by Mr. Junker and Ms. Wisneski cannot withstand careful scrutiny and are the product of the lies and misrepresentations of people seeking to blame others for their own criminal conduct and avoid more severe punishment.

5. *The Reimbursement Scheme Pre-Dated Mr. Husk's Alleged Authorization by at Least Five Years*

Although there are various schedules prepared in conjunction with the Report, not all of these schedules have been publicly disclosed. However, there is one twelve page document entitled: 'Fiesta Bowl: Political Contributions Reimbursed by the Fiesta Bowl' that has been disclosed. *See Exhibit E.* Utilizing the date of January 12, 2005 referenced by Ms. Wisneski, it is worthy to note that there were at least 37 contributions made prior to that date. While this document does not include the specific date of the reimbursement check, this information presumably has been prepared and can be easily requested by the FEC from either the Arizona Attorney General or the United States Attorney. As previously noted, however, the Report cites numerous employees who maintain they were reimbursed in close proximity to the date of their political contributions. Given these contributions and the employees' attitude towards these contributions, it is highly unlikely that the employees would have agreed to reimbursements as long as five years later.

Thus, the position that the actual reimbursement for pre-January 12, 2005 contributions, approximately 37 in number, did not occur until after January 12, 2005 is not supported by the statements contained in the Report. Frankly, there is absolutely no evidence to suggest that any employee had to wait longer than a couple of months for his/her reimbursements. In fact, even the very check dated January 12, 2005 that serves as the date after which Mr. Husk is alleged to

1504372462
Marianne Abely, Esq.
Federal Election Commission
August 14, 2013
Page 13

have approved the practice was, in and of itself, a reimbursement check for political contributions. As a consequence, the conclusion that employees were reimbursed for all of their political contributions after 2005 is inaccurate and strikes at the heart of the allegations made against Mr. Husk. If even one employee was reimbursed prior to the January 12, 2005, it is indicative that the scheme was actually implemented without Mr. Husk's alleged approval or knowledge. I am confident, however, that investigative records will prove that every employee who made a political contribution prior to January 2005, other than those made by Mr. Junker and his wife, was also reimbursed for that contribution within days of that contribution and well before January 2005.

This issue was addressed by the FEC in its Factual and Legal Analysis, Page 6, Footnote 2 of its where it concluded in part:

The available information suggests that, although some contributions may have been made prior to 2005, those contributions were not reimbursed until 2005 or thereafter. Under these circumstances, it makes sense that Husk would not have made the alleged statement until around 2005.

This explanation by the FEC is factually inaccurate based upon two key transactions. First, the Report unequivocally states that the check issued to Stan Laybourne on January 12, 2005 was for the purpose of reimbursing other employees for their political contributions. This transaction obviously occurred before the alleged consultation with Mr. Husk. Second, the federal indictment of Ms. Wisneski sets forth various Overt Acts as part of the Conspiracy charge. This includes the following:

"In or around February 2004, multiple Fiesta Bowl employees, including WISNESKI, wrote checks to the county election campaign of Maricopa County Supervisor Andrew Kunasek, and were subsequently reimbursed by the Fiesta Bowl, through checks signed by WISNESKI, on or about May 24, 2004."

See Page 5, Paragraph 18 b. Thus, the federal investigation determined that Ms. Wisneski, at Junker's direction, had multiple employees make contributions to Supervisor Kunasek in February of 2004 that were later reimbursed by the Bowl on May 24, 2004.

All of these transactions occurred prior to the alleged consultation with Mr. Husk. Since the reimbursement practice was already fully operational before he was allegedly consulted, Mr. Husk could not have been the scheme's 'mastermind'. This information is critical in that it: (1) corroborates Mr. Husk's position that the reimbursement scheme pre-dated Mr. Husk's alleged conversation, (2) directly contradicts the argument that all employee reimbursements occurred only after the alleged conversation with Mr. Husk, (3) raises serious questions regarding the very existence of the conversation, (4) demonstrates that Mr. Junker has made false accusations against Mr. Husk, and (5) demonstrates that Junker's Factual Basis submitted to the Court pursuant to his plea agreement contained material misrepresentations. As a consequence, the

Marianne Abely, Esq.
Federal Election Commission
August 14, 2013
Page 14

entirety of the "available information" clearly establishes that the FEC conclusion in Footnote 2 is inaccurate. This evidence completely contradicts any attempt by Bowl officials to suggest that Mr. Husk was responsible for establishing this scheme.

V. FEC Specific Allegations

The FEC has identified five political contributions made by persons affiliated with Bowl that are alleged to have been reimbursed by the Bowl using various methods. These contributions were made to a federal candidate or campaign thereby providing the FEC with jurisdictions over these transactions. After reviewing the documents disclosed in this matter and the specific contributions cited by your agency, there is no evidence that Mr. Husk: (1) solicited the political contributions from the contributors, (2) was present when the contributions were solicited or (3) had any knowledge of the existence of the contributions. The most that can be gleaned from the various documents, is that some people believed that Mr. Husk knew of the reimbursement scheme, which is not true. However, that is nothing more than pure speculation since none of these individuals had any direct contact with Mr. Husk on the specific solicitations cited by the FEC.

Similarly, as to the reimbursement of these specific contributions by the Bowl, there is no evidence that Mr. Husk: (1) advised these contributors that they would be reimbursed, (2) was present when these contributors were advised that they would be reimbursed, (3) actually provided reimbursements to these contributors, (4) was present when these contributors were reimbursed or (5) had any knowledge that these contributors were reimbursed. In fact, Mr. Husk had absolutely no knowledge of the five transactions cited by the FEC and there is no evidence to the contrary.

The following is a factual analysis of each of the transactions that the FEC has alleged as violations of federal campaign laws against Mr. Husk:

1. *Shawn Schoeffler*

According to the chart prepared by the FEC and other documents relied upon in this matter, Mr. Schoeffler made a contribution in the amount of \$1,000.00 on March 28, 2008 to the John McCain presidential campaign. Apparently, this contribution was reimbursed by the Bowl approximately four months later as part of Mr. Schoeffler's annual bonus of \$17,324.69 on July 21, 2008. There is no evidence or even an allegation that Mr. Husk ever suggested that Bowl management utilize this method (inclusion in an employee's annual bonus) for reimbursing employees for their political contributions. Further, as an outside consultant there is no evidence that Mr. Husk would have had access to or knowledge of the Bowl's bonus compensation practices that would afford him the opportunity to involve himself in the issuance of employee bonuses. Finally, this particular reimbursement was so well concealed that it would have only have been known or detected by those persons with intimate knowledge of the Bowl's financial affairs. Clearly, Mr. Husk had no such knowledge.

2. Lee Eyanson

According to the chart prepared by the FEC and other documents relied upon, this involved a contribution in the amount of \$1,000.00 on March 28, 2008 to the John McCain presidential campaign. Apparently, this contribution was reimbursed approximately three months later as part of an annual bonus issued to Peggy Eyanson, the contributor's wife and a Bowl employee, in the amount of \$13,822.18 on June 1, 2008.

Mr. Husk has never met Mr. Eyanson, but he is aware that his wife worked directly for Ms. Wisneski. There is no evidence, or even an allegation, however, that Mr. Husk at any point suggested that Bowl management engage in the practice of soliciting contributions from an employee's spouse and reimbursing those contributions by issuing a bonus to the employee spouse.

Obviously, this is a more sophisticated method of reimbursement that was concocted by Mr. Junker, Ms. Wisneski and Ms. Eyanson to avoid detection. As an outside consultant with no access or knowledge of the Bowl's financial affairs or employee spouses, it is illogical that Mr. Husk would be aware of this particular practice. To attempt to hold Mr. Husk liable for this contribution is simply not supported by any evidence.

3. Jay Fields

According to the chart prepared by the FEC and other public documents relied upon, this involved a contribution in the amount of \$1,000 on March 28, 2008 to the John McCain presidential campaign. Apparently, this contribution was reimbursed approximately four months later as part of an annual bonus issued to Mr. Fields in the amount of \$14,303.51 on July 21, 2008.

Again, there is no absolutely no evidence, or even an allegation, that Mr. Husk ever suggested that Bowl management to utilize this method (inclusion in an employee's annual bonus) for reimbursing employees for their political contributions. Further, as an outside consultant there is no evidence that Mr. Husk had access to or knowledge of the Bowl's compensation practices that would afford him the knowledge of or the opportunity to be involved in the issuance of employee bonuses.

In addition, Mr. Fields was contacted by the FEC regarding his political contributions to federal candidates that may have been reimbursed by the Bowl. Apparently, legal counsel for Mr. Fields submitted a written response to the FEC in which he stated that the bonus in question did not include a reimbursement for political contributions. By all indications, the FEC appears to have been satisfied with this explanation since it did not pursue a civil enforcement action against Mr. Fields. Thus, there is no corroboration from the person who actually made this contribution and received the bonus that it included a reimbursement of \$1,000. Under these circumstances, only those individuals involved in the issuance of the bonus/reimbursement would have been in a position to detect a reimbursement. Mr. Husk was clearly not among those individuals.



4. *Shawn Schoeffler*

According to the chart prepared by the FEC and other documents relied upon, this involved a contribution in the amount of \$1,000 on June 30, 2009 to John McCain's Patriot First PAC. Apparently, Mr. Schoeffler was reimbursed approximately two months later for his \$1,000 political contribution by increasing his \$3,000 car allowance by \$1000 to \$4,000 on August 25, 2009. Again, there is no evidence that Mr. Husk ever suggested that Bowl management utilize this method (inclusion of reimbursement in a vehicle bonus) for reimbursing employees for their political contributions. As an outside consultant, Mr. Husk had no knowledge of whether Mr. Schoeffler, or any other employee, even received a car allowance.

5. *Natalie Wisneski*

According to the chart prepared by the FEC and other public documents relied upon, this involved a contribution in the amount of \$1,000 on March 30, 2009 to John McCain's Patriot First PAC. Apparently, Ms. Wisneski was reimbursed through a bonus in the amount of \$1,182.60 dated August 12, 2009.

As confirmed by FEC records, Ms. Wisneski had previously contributed to a McCain-related campaign organization and it is standard practice for political campaigns to directly solicit political contributions from previous donors. In all likelihood, this was the manner by which Ms. Wisneski and others were solicited for contributions to this PAC. In addition, the direct reimbursement with a check whose amount is approximately the same as the contribution is not the method of reimbursement that Ms. Wisneski and Mr. Junker allege Mr. Husk is to have authorized sometime after January 12, 2005.

Finally, there is no question that Ms. Wisneski and Mr. Junker were intimately involved in establishing and implementing the reimbursement scheme. They also went to great lengths to conceal this information for at least a decade. In fact, at the time of this contribution Ms. Wisneski had been reimbursing employees for approximately 10 years. Given this track record, it is completely unreasonable to assume that Mr. Husk was responsible for this particular reimbursement. There is no evidence that in his role as an outside consultant, he had any knowledge of or access to the financial affairs of the Bowl.

VI. CONCLUSION

Mr. Husk has never denied that there were occasions when he forwarded solicitations for political contributions to Defendant Junker and other clients. In fact, this is a common occurrence for those individuals who provide public affairs consulting and there is nothing inappropriate or illegal in engaging in such solicitations. As you are undoubtedly aware, any illegality only arises if one participates or assists in the reimbursement of those political contributions. Mr. Husk has consistently and adamantly stated that he had no knowledge of these illegal activities, anymore than he had knowledge of the other illegal activities surrounding the misappropriation of millions of dollars from the Bowl by his accusers. The cumulative

evidence demonstrates that Defendant Junker alone was responsible for establishing a culture of theft and deceit that infected every level of the organization, and he is seeking to escape culpability by attempting to blame Mr. Husk.

In fact, the only evidence that Mr. Husk had knowledge of the reimbursement scheme comes from the self-serving statements of Mr. Junker and Ms. Wisneski. As previously noted, Mr. Husk is alleged to have authorized a specific reimbursement method by making the statement that *"Yeah, it's done all the time."* This statement is alleged to have been made sometime after January 15, 2005. Presumably, the FEC's position is that this innocuous statement constituted Mr. Husk's participation or assistance in the five transactions previously noted. While this may have been a convenient excuse for Bowl management to avoid accepting responsibility for their criminal conduct, such an explanation is not borne out by the objective evidence in this case. The FEC cannot impute liability to Mr. Husk for transactions for which he had absolutely no knowledge.

In conclusion, the FEC cannot overcome the significant exculpatory evidence presented, which includes, but is not limited to the following:

- The same principals at the Bowl who initiated, participated and engaged in the political contribution reimbursement scheme also participated in and personally benefitted from the misappropriation of millions of dollars from the Bowl.
- The reimbursement scheme pre-dated the alleged authorization by Mr. Husk by at least 5 years. Thus, Mr. Husk could not have been the "mastermind" of this scheme.
- The Bowl had operated the reimbursement scheme for at least 5 years prior to the alleged approval of the practice by Mr. Husk.
- Despite representations by Mr. Junker and his counsel that the all reimbursements of political contributions occurred after the alleged authorization by Mr. Husk, the federal criminal investigation contained uncontroverted evidence which proves that numerous reimbursements were made prior to the date of Mr. Husk's alleged authorization.
- Since Ms. Wisneski had already engaged in the practice of issuing a single check to one person for the reimbursement of others as evidenced by the \$15,000 check she issued on January 15, 2005 to the CFO, it is illogical that she would solicit Mr. Husk's authorization for this practice after the fact.
- As convicted felons whose integrity has been effectively impeached by the objective facts in this case, Mr. Junker and Ms. Wisneski have virtually no credibility in this matter.

Marianne Abely, Esq.
Federal Election Commission
August 14, 2013
Page 18

- There is no evidence that Mr. Husk had any knowledge of the 5 political contributions cited by the FEC.
- There is no evidence that Mr. Husk solicited the 5 political contributions cited by the FEC.
- There is no evidence that Mr. Husk advised contributors that they would be reimbursed for the 5 political contributions cited by the FEC.
- There is no evidence that Mr. Husk provided any reimbursement for the 5 political contributions cited by the FEC.

In light of these uncontroverted facts, I would submit that there is no reasonable basis to pursue a civil enforcement action against Mr. Husk. I would therefore request that this matter be dismissed based upon the abundance of exculpatory evidence that may have been previously unknown by the FEC. There is a complete lack of credibility among Mr. Husk's accusers who were entirely responsible for a decade's worth of looting of millions of dollars from the Bowl for their personal benefit in a multitude of scams. Those individuals were successfully prosecuted by state and federal law enforcement authorities and stand convicted of various criminal offenses. For this body to pursue a civil enforcement action against Mr. Husk based upon the well-documented misrepresentations of convicted felons for specific political contributions of which he had no knowledge, would be a grave injustice and a waste of the government's and Mr. Husk's time and resources.

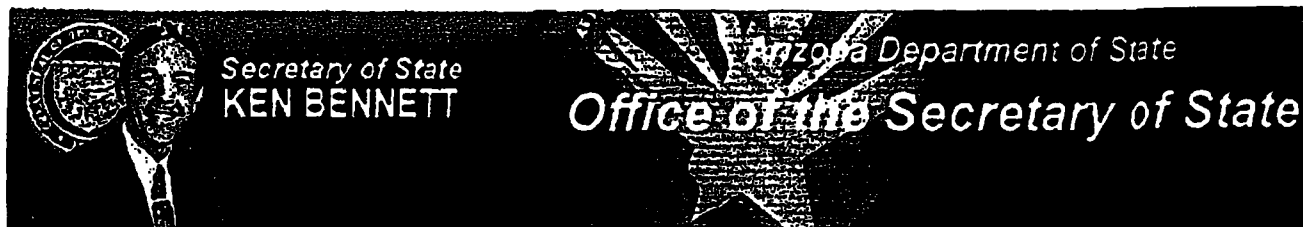
Sincerely,



Michael Mandell, Esq.

MSM:es
Enclosure





Arizona Secretary of State Lobbyist System

Generated by Lobbyist Search version 3.50

Principal/Public Body Information

PPB ID	104817
PPB TYPE	Principal
PPB NAME	AZ SPORTS FOUNDATION/FIESTA BOWL
PPB STATUS	Inactive
PPB CONTACT	
PPB ADDRESS	120 S ASH AVE TEMPE, AZ, 85281
PPB PHONE	480-517-6273

Active Lobbyist References

No information available.

Annual Report Information

REP YEAR	RECEIVED	EXEMPTED	AMENDED
2005	2/22/2005	YES	
2004	2/10/2005	NO	
2003	4/6/2004	NO	
2002	3/5/2003	NO	5/5/2003
2001	3/21/2002	NO	
2000	3/8/2001	NO	

Inactive Lobbyist References

LOB ID	REF TYPE	LOB NAME	STARTED	TERMINATED
3206815	DL	DEMENNA & ASSOCIATES	2/4/2000	2/10/2005
3601780	AL	JUNKER, JOHN	2/4/2000	5/22/2001
3100302	AL	SNELL & WILMER LLP	11/29/2000	11/30/2000
3106239	AL	WHEELER, STEVE	2/4/2000	11/29/2000

[Back to Lobbyist Search](#)